

Remarks:

Reconsideration of the application in view of the above amendments and following remarks is requested. Claims 12 and 14 are now in the case. Applicants have amended claim 12.

Applicants assert that the present amendment adds no new matter to the application as originally filed. Basis for the amendment to claim 12 can be found in the application as originally filed, see e.g., page 24, line 25 through page 28, line 9.

I. Priority *(as shown on page 2 of the Final Office Action dated April 14, 2008, hereinafter, "the present Office Action")*

The Examiner has withdrawn the previous objection to the application in view of Applicant's amendment to the specification to update the status of U.S. Patent Application 09/746,375 as "now abandoned".

II. Objections to the Specification *(as shown on page 2 of the present Office Action)*

The Examiner has withdrawn the objection to the specification in view of Applicants' amendment to replace "#####" with "WO 01/40467, filed on December 1, 2000".

The Examiner has withdrawn the objection to the specification in view of Applicants' deletion of embedded hyperlinks.

III. Rejection Under 35 U.S.C. §101 *(as shown on pages 2-3 of the present Office Action)*

The Examiner has withdrawn the rejection of claims 12 and 14 under 35 U.S.C. §101 in view of Applicants' arguments on pages 8-9 of the Amendment and Response to Office Action dated September 20, 2007, filed February 20, 2008.

IV. Rejection under 35 U.S.C. §112, first paragraph *(as shown on pages 3-5 of the present Office Action)*

The Examiner has rejected claims 12 and 14 under 35 U.S.C. §112, first paragraph as lacking enablement. Specifically, the Examiner has alleged that a method of detecting activated CD3+ T-cells by the hybridization steps as recited in claim 12 is not enabled because the polynucleotide product as produced after the first reaction of the claimed method would bind many nucleic acids and not just Zcyto18 nucleic acids.

Claim 12 recites that the "...polynucleotide will hybridize to a **complementary** polynucleotide..." (emphasis added). From the specification,

The term "complements of a polynucleotide molecule" denotes a polynucleotide molecule having a complementary base sequence and reverse orientation as compared to a reference sequence. For example, the sequence 5' ATGCACGGG 3' is complementary to 5' CCCGTGCAT 3'.

Page 10, lines 27-30.

To simplify matters under consideration and to expedite prosecution and allowance Applicants have amended claim 12 to recite that "...the polynucleotide will hybridize to a **complementary** polynucleotide sequence in the tissue or biological sample **under stringent conditions**..." (emphasis added) The present application provides ample definition for stringent conditions, see e.g., page 24, line 25 through page 28, line 29. Moreover, "[v]arying the stringency of the hybridization conditions allows control over the degree of mismatch that will be present in the hybrid." Page 24, lines 29-31.

Thus, by way of reciting that the polynucleotide will hybridize to a "complementary" polynucleotide, and by way of the additional recitation that the polynucleotide should bind under "stringent conditions", Applicants have focused the scope of detection to hybridization to Zcyto18 nucleic acids and have excluded others. Therefore, the entire scope of the present claim is enabled. Consequently, Applicants respectfully request that the present rejection be properly withdrawn.

V. Conclusion

On the basis of the above amendments and remarks, Applicants believe that each rejection has been addressed and overcome. Reconsideration of the application and its allowance are requested. If for any reason the Examiner feels that a telephone conference would expedite prosecution of the application, the Examiner is invited to telephone the undersigned at (206) 434-3410.

Application Serial No.: 10/806,294
Amendment dated: June 16, 2008
Response to Office Action dated April 15, 2008

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It is believed that no fee is due. However, in the event that a fee is due, please charge any fee or credit any overpayment to Deposit Account No. 26-0290.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'A. A. Schützer', written in a cursive style.

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